Submitter : Mr. Ryan Mautz **Date & Time:** 09/10/2004 10:09:23

Organization : Ball State University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 10, 2004

Ryan Mautz
3712 N. Tillotson Ave Apt 419
Muncie, IN 47304

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy-Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified heath care providers of ?incident to? services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment, and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Ryan Mautz

CMS-1429-P-1201

Submitter : Mr. Nicholas Lane **Date & Time:** 09/10/2004 10:09:58

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am an Athletic Training Student and a member of the NATA. I will be taking my certification in 2 months and look forward to being a Professional Athletic Trainer. The profession of Athletic Training has come a long way and has slowly recieved the due respect from other healthcare professionals. It is finally becoming known that Athletic Trainers are highly qualified healthcare providers with extensive training. Certification has become increasingly difficult over the years because of the increased demands and wide practice environments that Athletic Trainers may find themselves in. This new policy your organization is proposing will set the profession of Athletic Training backwards greatly and all the progress that has been made. I urge your organization to investigate more the level of intense training an Athletic Trainer must endure to become a professional practitioner. We are not merely professionals who "slap on an ice bag and tape ankles." Once again, I urge you to reconsider this new policy proposal. Thank You.

CMS-1429-P-1202

Submitter : **Date & Time:** 09/10/2004 10:09:18

Organization : Castleton State College

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

? ?Incident to? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
? It is imperative that physicians continue to make decisions in the best interests of the patients.
? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
? Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).
? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.
? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
? Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

Submitter : Mr. Vic LeDoux **Date & Time:** 09/11/2004 02:09:42

Organization : Vanderbilt University Medical Center

Category : Hospital

Issue Areas/Comments

GENERAL

GENERAL

I oppose this movement as it will only limit the abilities of the Athletic Training profession. It will also cause further disruption within the therapy professions. Athletic Trainers are more qualified than Physical Therapy Assistants, but have less respect from Medicare in regards to billing. Further disturbances to the Athletic Training profession could have serious trickle down consequences to the health care delivered everyday to many underserved populations. Enable the Athletic Training profession instead of limiting.

Submitter : Miss. Autumn Suckow **Date & Time:** 09/11/2004 02:09:10

Organization : Grand Canyon University Athletic Training Program

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Center for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Attention: ?Therapy?Incident To?

When I first became aware of the proposal to allow Medicare patients to receive services from Certified Athletic Trainer?s (ATC) without billing, I was outraged, and rightfully so. ATC?s are more qualified than Physical Therapist Assistant?s (PTA) in many areas, and are comparable to Physical Therapists (PT). PT?s can graduate with a degree in any subject and then go to graduate school for two to three years to become qualified for working in rehabilitation. ATC?s work on a 4-year undergraduate program entailing a variety of experiences which makes them equally qualified as PT?s, and more qualified than the two-year Internet program PTA?s go through without any hands on experience.

I am a student at Grand Canyon University, planning to go on to PT school to continue my education and enhance my skills. Many ATC?s continue to get their master?s or to work alongside a PT, doing similar work to the PT. My experience, gives credibility to my opinion because through my accredited Athletic Training program, I have worked in clinics, hospitals, Athletic Training rooms at high schools and colleges, as well as completing one thousand hours of experience in the clinic or field. Clinical rotations are not required for PTA?s. It is an insult to allow a PTA bill your patients, when an ATC is more educated and more competent than a PTA.

All Athletic Training Students (ATS) have seen injuries occur, and understand what it takes to get the patient back to everyday activities, and competition. Seniors in the Athletic Training Program are assigned a sports team, for which they attend all practices, games, and travel with the team. They are responsible for preventing injuries, rehabilitating injuries that do occur and helping the athlete return to normal everyday activities.

Some of the classes required to graduate include, but are not limited to, Human Anatomy and Physiology (two semesters, with cadaver labs), Care and Prevention of Athletic Injuries, Teaching of Individual Activities, Therapeutic Modalities, Theory of Prescribing Exercise, Physiology of Exercise, Kinesiology, Psychology, Pharmacology, and four semesters of Clinicals. These classes alone teach enough information to be able to care for injured patients, not to mention the additional hands-on experience ATS?s encounter in their undergraduate program.

I hope you keep all these things in mind when you consider the proposal. I hope someday, when I am working as a PT in my own clinic, I will be able to hire an ATC to work with me. I would prefer a qualified ATC than a PTA to work with my patients and me. I desire true quality care for my patients, as I?m sure you do as well.

Sincerely,

Autumn Suckow

CMS-1429-P-1205

Submitter : Mrs. Deborah Riczo **Date & Time:** 09/11/2004 03:09:55

Organization : MetroHealth Medical Center

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I support having physical therapists or physical therapy assistants as being the providers of P.T. in physicians offices. I am a practicing P.T. in a large urban hospital that has a longstanding industrial rehab program. This past week I was referred a patient from a community doctor who was treated at that doctor's office for 1 1/2 years for his back after a MVA while on the job. He also had neck and knee injuries that were allowed by BWC. He only recieved passive modalities and low level exercise. In the meantime he gained 40 lbs. and became quite depressed. He is only chronololgically 39, but his body is what we call a "trainwreck". He has 4 children at home. He is has a "very nice" personality.

These passive people, the ones that are too "nice", or too "naive", or too "stupid" are the ones at risk for this kind of system abuse. They have no one in there family to help them and steer them away from these offices that don't have qualified medical personal to develop treatment plans and make appropriate referrals when situations are beyond their scope of practice. The patient I described above is not rare to come through our doors, which is why I am taking the time to communicate this atrocity. The person I described above is now under our care, but a lot of damage has been done, which will take time to undo. If we can. And if BWC will give us the time. . . we will try. Let's just have qualified personnel treat them in the first place. . . . It makes sense to me.

Deborah Riczo, M.Ed., P.T.

Submitter : Mr. Edward Wierzbicki **Date & Time:** 09/11/2004 03:09:26

Organization : APTA

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The field of physical therapy has grown into a profession that requires specific education and training. Licensed physical therapists must earn the privilege to evaluate and treat patients, paying special attention to the therapeutic and non-therapeutic needs of each patient. The academic curricula and clinical residencies required for graduation from an accredited institution prepare therapists for licensure as a professional who is part of a multidisciplinary health care team. To allow individuals without such specific education and training to perform therapeutic services compromises (in a very real way) the effectiveness of therapeutic treatment. To fully protect the health of the general population and to allow for the most effective and cost efficient means of care (ie. to protect against the administration of ineffective and costly treatment), a licensed physical therapist is the best and only choice for the administration of physical therapy services.

Submitter : Ms. Cara DeSalvo **Date & Time:** 09/11/2004 04:09:11

Organization : University of Pittsburgh Medical Center/NATA Membe

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached.

CMS-1429-P-1207-Attach-1.txt

CMS-1429-P-1207-Attach-2.txt

Attachment #1207 (1 of 2)

3204 Jane Street Apt 1
Pittsburgh, PA 15203

September 10. 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system. During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Cara A. DeSalvo, ATC
3204 Jane Street, Apt 1
Pittsburgh, PA 15203

Attachment #1207 (2 of 2)

3204 Jane Street Apt 1
Pittsburgh, PA 15203

September 10. 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

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There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Cara A. DeSalvo, ATC
3204 Jane Street, Apt 1
Pittsburgh, PA 15203

Submitter : Mr. NELSON DAVIS **Date & Time:** 09/11/2004 06:09:52

Organization : VANDERBILT SPORTS MEDICINE

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

ATHLETIC TRAINERS are HEALTH CARE PROFESSIONALS which require a minimum of a Bachelors Degree and are trained in several areas of injuries and illnesses and conditions and how to treat them. We also have to pass a NATIONAL CERTIFICATION EXAM before we can start practicing and have proven ourselves as a very valuable asset/link in the health care chain. It does not make sense to have these limitations/restrictions placed on us. We are an integral link in the whole health care chain and should be recognized as such.

Submitter : Dr. Christian Mannsfeld, MD **Date & Time:** 09/11/2004 09:09:31

Organization : Dr. Christian Mannsfeld, MD

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Contract groups should be ?required? to provide claims data and not just provide "access" to such data. As an emergency room physician who has worked for a number of contract groups, I have never been offered access to the billing data, and have never felt comfortable asking for the access. It would be like working for Toll House and asking for the recipe to their most excellent chocolate chip cookies.

Thanks!

Submitter : Mr. Christopher Curran **Date & Time:** 09/11/2004 10:09:27

Organization : Detroit Lions Football Team of the NFL

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

This letter is to show my concern and to disagreement with this proposal. As a Certified Athletic Trainer in the NFL, I feel this will affect the professional of Athletic Training in a very negative way and for no sensible reason. If lawmakers would look closely at what we as a professionals are trained in, they would see there is no reason to limit us by this passing this proposal. This is honestly a very scary issue to the working Certified Athletic Trainers in this country. We already are not paid very well in most settings and this will just further limit us and therefore hurt us as a working profession. Please, do not pass this proposal.
Christopher J. Curran
Assistant Athletic Trainer
Detroit Lions, NFL

Submitter : Dr. Beata Beaudoin **Date & Time:** 09/11/2004 11:09:19

Organization : University of Medicine

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

The use of neuropsychological testing technicians to gather information in a standardized fashion should be allowed. This is a standard of care, which is practiced in physicians offices as well, with dental assistants, nurses, etc. This will allow neuropsychologists to see a greater number of patients at lower fees, and should benefit both patients and insurers. Thank you.

Submitter : Dr. Timothy Kintzel **Date & Time:** 09/11/2004 01:09:35

Organization : Dr. Timothy Kintzel

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

As a busy practising Emergency Physician, I find it very disturbing that the posibility exists that although I am legally liable for any errors in billing done under my name, that many hurdles exist for me to have unrestricted access to my billing records if I were to work for a Emergency Medicine contract group. This is most unfair for physicans to have their access to such records (the "books") limited by these groups who hope to prevent physicans from requesting higher salaries when they see how much money they have collected in their name. In cases of billing error by the contract group, the physican is still legally liable and he or she may never have had access to the error in the first place. Physicains should have unrestricted access to such records to ensure fair pay practises as well as for their legal protection. I refer you to the AAEM offical statement which you have had submitted. Sincerely,
Timothy Kintzel MD

Submitter : Mrs. Barbara Hornbeek **Date & Time:** 09/11/2004 01:09:30

Organization : Mrs. Barbara Hornbeek

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly support the proposed personnel standards for physical therapy services that are provided "incident to" physician services in the physician's office. I oppose the use of unqualified personnel to provide services described and billed as physical therapy services. I do not want patients going to medical offices and obtain treatments given by untrained staff, i.e. exercises or ultrasounds, and presented as physical therapy. That is not physical therapy.

Submitter : Dr. Adam Ray **Date & Time:** 09/11/2004 01:09:35

Organization : Dr. Adam Ray

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

It is imperative that billing firms be required to provide exact billing information to the emergency physicians (and other clients) they serve. Simply allowing their clients "access" to the billing information is not sufficient. Some large contract management groups can penalize physician employees for requesting this billing information, even though the individual physician is the one ultimately responsible for any errors in billing.

Submitter : Dr. Marc Roy **Date & Time:** 09/11/2004 02:09:10

Organization : Dr. Marc Roy

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

In regards to file code CMS-1429-P, it is imperative that CMS hears the voice of the EM community regarding the need for contract groups to be 'required' to provide claims data and not just provide 'access' to such data. As the code is written now, physicians will be liable for false claims submitted by the contract group. If this is the case, EM physicians need to recieve a copy of the billing information directly, rather than just have 'access' to the information.

CMS-1429-P-1216

Submitter : Dr. Daniel Theodoro **Date & Time:** 09/11/2004 02:09:25

Organization : EMUST

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

In reagards to ? 424.80 Prohibition of reassignment of claims by suppliers:
The wording in part (2) leaves Emergency Physicians, like myself, wary of access to claims data. Contract groups should be "required" to provide claims data and not just "access." In this manner, Emergency Physicians can review their claims without fearing repercussions from a contract group for whom they work.
Sincerly,
Daniel Theodoro MD

Submitter : Dr. Lesley Scholl **Date & Time:** 09/11/2004 03:09:23

Organization : AAEM

Category : Physician

Issue Areas/Comments

Issues 1-9

GPCI

Please consider changing wording of "access" to "requiring" regarding groups to provide detailed billing/coding information to physicians.

CMS-1429-P-1218

Submitter : Dr. Richard Reisman **Date & Time:** 09/11/2004 05:09:36

Organization : self-employed emergency physician

Category : Physician

Issue Areas/Comments

Issues 20-29

ASSIGNMENT

I am an emergency physician and an independent contractor with presently 2 different emergency contract groups in our area. I presently am paid an hourly wage for my services. Professional billing in my name is assigned to the contracting group by me and is a condition of my being a part of the emergency group. Although I am held responsible for the correctness of the medical billing done in my name, there is no feedback that I am able to receive regarding the nature of that billing.

I am not alone among my peers. None of the MD contracting groups in this area provide feedback regarding billing that has been assigned by contracting MD's. I was a part of another Emergency Medicine group 2 1/2 years ago where the members attempted to negotiate with the contact-holder the right to have access to our own billing data. The result of that negotiation was no change in the manner in which the group functioned, and 3 of the more vocal members, including myself, were terminated.

It is imperative that CMS regulations require emergency medicine physician contracting groups regularly provide billing data to the contracting MD's. This will prevent abuses of billing practices, and allow practicing emergency physicians to have legal access to their own financial data, which they presently are widely excluded from having.

CMS-1429-P-1219

Submitter : **Date & Time:** 09/11/2004 07:09:30

Organization :

Category : Physical Therapist

Issue Areas/Comments

Issues 10-19

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I strongly support CMS's proposal to replace the requirement that physical therapists provide personal supervision (in the room) of physical therapist assistants(PTAs) in the physical therapist (PT) private practice office with a direct supervision (in the office suite)requirement.
PTAs have adequate qualification and a license to implement plan of care with direct supervision from a licensed PT . This change will not only minimize redudancy of qualified people, but enhance quality of care to patients in general.
PTAs are qualified on performing certain tasks during a treatment session, including supervising progressive resistive exercise program, administering ultrasound or electrical stimulation to patients. The direct supervision requirement will allow me to step into the private treatment room to discuss sensitive issues that my patient may not feel comfortable discussing in front of the other people. That also includes culturally deversed patient population who feel uncomfortable exercising in front of other people. With the current regulation of personal (in the room) supervision requirement I can not step outside the room when other patients are in the exrecise room even if they are being safely monitored by PTA.
I highly commend US Government in being vigilant in enforcing consumer safety, however, this particular arena needs further speculation since current physical therapist assistants' program in USA are graduating qualified PTAs who are excellent assistants but are not allowed to take any responsibility towards treatment protocol that has been devised by me although my patients feel very well cared for. PTAs should be given little more room to practice what they learn in school without feeling they are no better than aides who have no educational background in physical therapy what so ever.
I believe most of us want to do the right thing when given a choice. It would be the right thing to do to allow physical therapist assistants to grow in their choice of profession without uncessary requirement of in the room supervision from their superior.

Thank you.

CMS-1429-P-1220

Submitter : Mr. Robert Lewis **Date & Time:** 09/11/2004 09:09:14

Organization : Mr. Robert Lewis

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

Rural designation (in Locality 99) needs to change now!

CMS-1429-P-1221

Submitter : Brigette Olson **Date & Time:** 09/11/2004 09:09:50

Organization : Castleton State College

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1221-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Brigette Olson
CSC Box 1309
Castleton, VT 05735

Attachment to # 1221
September 10, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Brigette Olson
Castleton State College
Student Athletic Trainer

Submitter : Mr. Wayne Akers **Date & Time:** 09/11/2004 09:09:59

Organization : Vanderbilt Sports Medicine

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Certified Athletic Trainers are qualified Allied Health Professionals. There should be no reason for ATC's not to see Medicare Patients. This law would be a disservice to both the community and to all persons currently on Medicare. Please re-think this bill and make sure that ATC's are respected for the work they do.

Submitter : Mr. Walker Terhune MS, ATC **Date & Time:** 09/11/2004 10:09:49

Organization : University of Kentucky Sports Medicine

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Walker Terhune MS, ATC
Head Athletic Trainer Kentucky State University
University Of Kentucky Sports Medicine Department
740 S. Limestone
Kentucky Clinic Suite K401
University Of Kentucky
Lexington, KY 40536-0284

9/11/04

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy ? Incident To

Dear Sir/Madam:

I am a Certified Athletic Trainer writing to express my concern over the recent proposal that would limit providers of ?Therapy-incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. It would reduce the quality of health care for Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

-Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and patient.
-There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
-CMS offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
-Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians will take away from the physician?s ability to provide the best possible patient care.
-This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in care, greater cost and a lack of local, immediate treatment.
-Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also cost time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which add to the medical expenditures of Medicare.
-CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. This action could

be construed as an unprecedented attempt by CMS to seek exclusivity as a provider of physical therapy services.
It is not necessary or advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS recommendation is a health care access deterrent.

Sincerely,

Walker Terhune MS,ATC
136 Cypress Dr
Frankfort, KY 40601

CMS-1429-P-1224

Submitter : Tina Green **Date & Time:** 09/11/2004 10:09:39

Organization : self

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

re Physician Fee Schedule 2005:
Santa Cruz, CA is one of the most expensive cities in the US to live in, yet you continue to classify Santa Cruz as a rural community and you continue to underpay the doctors, thereby causing a brain drain. Why don't you come for a visit? We have a temperate climate by the sea and the average home costs $500,000 for nothing fancy. Santa Cruz is like Carmel. Are they classified as rural? Wake up!! I know Sam Farr our representative has been trying to get your attention for years! Schools are closing because young families can't afford to buy a house yet you continue to treat us as if there is nothing here but garlic and broccoli farms. University of California Santa Cruz is here.

Submitter : Dr. roger hursh **Date & Time:** 09/11/2004 10:09:47

Organization : Dr. roger hursh

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

as a practicing emergency physician, i hope you will adopt policies that require emergency medicine contract groups to give the practicing physicians the charges information billed under their care. this will show the physician what is being billed for their care, and this is only fair. it will also help prevent fraud and over billing of medicare by the contract groups. thank you
roger hursh md

Submitter : Mr. Dion Johnson II **Date & Time:** 09/12/2004 12:09:13

Organization : Mr. Dion Johnson II

Category : Individual

Issue Areas/Comments

Issues 1-9

PRACTICE EXPENSE

Please see my letter attached. Thank you.
Dion L. Johnson II
265 Woodland Drive
Scotts Valley CA 95066

CMS-1429-P-1226-Attach-1.doc

Attachment to # 1226
September 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to update the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California in this regard. The payment differential for physician services in a county less than 12 miles from where I live is over 25% greater than for services that I might receive from doctors in Santa Cruz. I understand that this is by far the greatest such differential in the country.

Driving to San Jose for medical services is inconvenient, costly, and unfair to the seniors in this county.

This needs to stop. We are losing doctors and other medical specialists. I believe that Congress has delegated to CMS the responsibility to manage the payment to physicians.

It is your responsibility to correct this problem. Please let us citizens know if we can help somehow.

Sincerely,

Dion L. Johnson II
265 Woodland Drive
Scotts Valley CA 95066

home: (831)461-0544

Submitter : Mr. Steven Barisof **Date & Time:** 09/12/2004 04:09:10

Organization : Mr. Steven Barisof

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

September 11, 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: CMS Code 1429-P

To Whom It May Concern:

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to update the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. The payment differential for physician services in a county less than 20 miles from where I live is over 25% greater than for services that I receive from my doctor. I understand that this is by far the greater such differential in the country. It is not reasonable or safe for people to have to drive over a twisty 20 mile road through a small mountain pass to locate a doctor, not to mention the delays in doing so. Many doctors have left this community as a result of these inequities.

This needs to stop. We are losing doctors and important specialties. I cannot fathom how this is allowed to continue. I believe that Congress has delegated to CMS the responsibility to manage the payment to physicians. I believe that no other county in the U.S. is in greater need of reform than our county. It is your responsibility to correct this problem. Continued postponement of this long-needed reform is ill advised and inappropriate.

Sincerely,

Steven Barisof
338 Stanford Avenue
Santa Cruz, CA
Phone: (831) 426-6575

CMS-1429-P-1227-Attach-1.doc

Attachment to # 1227
September 11, 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: CMS Code 1429-P

To Whom It May Concern:

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to update the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. **The payment differential for physician services in a county less than 20 miles from where I live is over 25% greater than for services that I receive from my doctor**. I understand that this is by far the greater such differential in the country. It is not reasonable or safe for people to have to drive over a twisty 20 mile road through a small mountain pass to locate a doctor, not to mention the delays in doing so. Many doctors have left this community as a result of these inequities.

This needs to stop. We are losing doctors and important specialties. I cannot fathom how this is allowed to continue. I believe that Congress has delegated to CMS the responsibility to manage the payment to physicians. I believe that no other county in the U.S. is in greater need of reform than our county. It is your responsibility to correct this problem. Continued postponement of this long-needed reform is ill advised and inappropriate.

Sincerely,

Steven Barisof
338 Stanford Avenue
Santa Cruz, CA
Phone: (831) 426-6575

CMS-1429-P-1228

Submitter : Mrs. Tanya Dargusch **Date & Time:** 09/12/2004 11:09:59

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a consumer I am concerned with changes being made in CMS in regards to 1429-P. I read this as a limitation to my freedom of choice of who will be able to provide rehabilitation services.

Since the onset of Medicare you have always allowed physicians to bill incident-to for these services. My physician is highly qualified to make decisions on who is to provide physical therapy services. Exclusivity to select groups to provide this service limits my physician?s choice on who can provide appropriate care. CMS should not be able to take the care of that patient out of the hands of the physician. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

What is amazing is that in the same section it reads that physical therapists be able to utilize physical therapy assistants and employees of their practice to provide physical therapy services. How can Medicare reimburse for a physical therapist to choose who is to provide the service and not allow the physician to be able to do the same? The physician has a higher degree but yet is not as qualified as a physical therapist to make the decision on who is able to provide appropriate care? That is ludicrous.

This change is creating exclusivity to select groups and eliminating the use of other licensed health care professionals that a physician may choose to provide therapy services. It is taxing to a system that already has a shortage of health care professionals. Please reconsider sections 410.59, 410.60, 410.61, and 410.62.

CMS-1429-P-1228-Attach-1.txt

Attachment #1228

Dear CMS,

As a consumer I am concerned with changes being made in CMS in regards to 1429-P. I read this as a limitation to my freedom of choice of who will be able to provide rehabilitation services.

Since the onset of Medicare you have always allowed physicians to bill incident-to for these services. My physician is highly qualified to make decisions on who is to provide physical therapy services. Exclusivity to select groups to provide this service limits my physician's choice on who can provide appropriate care. CMS should not be able to take the care of that patient out of the hands of the physician. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

What is amazing is that in the same section it reads that physical therapists be able to utilize physical therapy assistants and employees of their practice to provide physical therapy services. How can Medicare reimburse for a physical therapist to choose who is to provide the service and not allow the physician to be able to do the same? The physician has a higher degree but yet is not as qualified as a physical therapist to make the decision on who is able to provide appropriate care? That is ludicrous.

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Sincerely.

Tanya M. Dargusch

Submitter : Dr. James Anderson **Date & Time:** 09/12/2004 01:09:22

Organization : Kansas Rheumatology Society

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Dear Sirs,

As rheumatologists doing infusions in the office, there are several areas of the legislation that directly involve us.

First, we appreciate the efforts to equalize pay for complex biologic infusions. We have given over 4000 doses of IV meds in our office. We are paid at a much lower rate than the oncologists for the same infusions. Leveling out the reimbursement, by allowing us to use complex biologic codes, would be greatly appreciated, and may make it possible for us to continue to do in office infusions for our patients.

We have had several reactions, including 4 in one week a couple of weeks ago. These require attention and IV meds given urgently. Help covering these expenses would also be appreciated.

As rheumatologists, we are forced to buy meds through a middleman.We have been unable to go directly to the manufacturer. Because of this, the ASP plus 6% may be under what it costs us to buy the meds. If this is the case, we may be forced to sent the infusions back to the hospital, where apparently there are different rules for buying the meds.

There are many other biologics coming soon, and we would like to continue to provide these services to our patients. We are happy that the issues that involve us are being addressed, and it is likely that if we are can use complex biologic infusion codes, we will continue these services.

James Anderson MD
Kansas Rheumatology society

Submitter : Deborah Corbatto **Date & Time:** 09/12/2004 01:09:23

Organization : Deborah Corbatto

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-1230-Attach-1.doc

Attachment to # 1230

12 September 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Submitter : Mr. James Shea **Date & Time:** 09/12/2004 02:09:11

Organization : NATA

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1231-Attach-1.doc

Attachment # 1231

Geisinger
Wyoming Valley Medical Center

COLLEGE MISERICORDIA ATHLETICS

September 12, 2004

This letter is being sent to voice my concern over the recent proposal that would mandate that only physical therapists and a select group, which excludes Certified Athletic Trainers (ATCs), are qualified providers of "incident to" services in physician offices and clinics for Medicare patients. If adopted, this would eliminate the ability of qualified health care professionals (i.e. Certified Athletic Trainers) to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, and, ultimately, increase the costs associated with this service and place an undue burden on the health care system.

Currently, I work for Geisinger Health System that contracts its services to a NCAA Division III College, as an Athletic Trainer . During my time at College Misericordia, my colleagues and I have provided very effective and successful care to our student-athletes under the supervision from our team physician, as well as numerous other physicians. Our physicians, coaches, faculty and, most importantly, our patient satisfaction and outcomes, are extremely noteworthy and well documented. The CMS proposal to establish a minimum standard that allows only limited providers, which currently excludes ATCs, the ability to provide outpatient therapy services is an insult and outrage to the profession of Athletic Training, the 30,000+ members, and a disservice to the multitude of patient's Certified Athletic Trainers' treat.

I am very proud of the profession of Athletic Training and I stand behind the services we provide; therefore, I ask that during the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able

to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of their patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers have accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

James A. Shea Jr., MS, ATC
TEL: (570) 674-6349
E-MAIL: athtrain@misericordia.edu

CMS-1429-P-1232

Submitter : Mr. Pepper Burruss **Date & Time:** 09/12/2004 03:09:09

Organization : Green Bay Packers

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1232-Attach-1.doc

CMS-1429-P-1232-Attach-2.doc

CMS-1429-P-1232-Attach-3.txt

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Attachment 2 to # 1232
September 12, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services.

As a licensed physical therapist I feel that certified athletic trainers have the educational background and clinical skills necessary to provide quality therapy to patients, across the age span. I have worked closely with certified athletic trainers throughout my career and have personally witnessed their skills and effectiveness. Eliminating access to these professionals would be a severe loss for Medicare patients.

Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are

unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

I firmly believe that the physical medicine CPT codes are intended for use by qualified health care providers, and that certified athletic trainers are as qualified as physical therapists and more qualified than physical therapy assistants to provide these services.

I strongly oppose the proposed policy change and urge its withdrawal.

Sincerely,

T.Pepper Burruss, PT, ATC.
Head Athletic Trainer
Physical Therapist
Green Bay Packers

Attachment # 1232

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

September 12, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

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Head Athletic Trainer
Physical Therapist
Green Bay Packers

Attachment #1232 (3 of 3)

September 12, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

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Sincerely,

T.Pepper Burruss, PT, ATC.
Head Athletic Trainer
Physical Therapist
Green Bay Packers

Submitter : Dr. Victor Sasson **Date & Time:** 09/12/2004 03:09:44

Organization : AAEM, ACEP

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Hello, I am writing regarding the issue of whether contract groups should be required to provide claims data versus just provide "access" to such data. I feel very strongly that they should be required. If you don't require it, then the contract groups will effectively not give access because asking for the access with jeopardize your job with the contract management group. Contract management groups are incentivized to hide billing data from their hired docs so that the docs don't know how much profit the group is skimming. The docs remain liable for the billing, yet they will effectively NOT have access to the billing info unless you require reporting of it. Interestingly, if you look at the other hospital based specialties (anesthesiology, radiology, ect), they have a much high percentage of physician owned and run groups. ER is dominated my contract management groups, which I believe is of great detriment to the profession. I believe you get the best care when the ER managers work for the docs, rather than the current situation in which corporate entities hire docs. Their ability to muscle physicians out of ownership is greatly affected by how you structure the business rules, so I urge you to please require manditory reporting of billing data.

Submitter : Mrs. Clare Safran-Norton **Date & Time:** 09/12/2004 03:09:44

Organization : APTA

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

?Therapy Standards and Requirements?
KEY POINT: I strongly support CMS?s proposal to replace the requirement that physical therapists provide personal supervision (in the room) of physical therapist assistants in the physical therapist private practice office with a direct supervision requirement. This change will not diminish the quality of physical therapy services.

Other Points:
? Physical therapist assistants are recognized under state licensure laws as having the education and training to safely and effectively deliver services without the physical therapist being in the same room as the physical therapist assistant. No state requires personal (in the room) supervision of the physical therapist assistant.

* Physical therapist assistants are recognized practitioners under Medicare and are defined in the regulations at 42 CFR ?484.4. According to this provision, a physical therapist assistant is ?a person who is licensed as a physical therapist assistant by the State in which he or she is practicing, if the State licenses such assistants, and has graduated from a 2-year college-level program approved by the American Physical Therapy Association.
* Requiring direct supervision would be consistent with the previous Medicare supervision requirement for assistants that physical therapists in independent practice (PTIPs) were required to meet prior to 1999.
* Changing the supervision standard from personal (in the room) to direct would protect the privacy of the patient?s that receive services from physical therapists and physical therapist assistants. It will enhance protection to keep private conversations about a patient?s care from being overheard.
* This change in supervision standard will not cause physical therapists to change staffing patterns. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for the proper delegation and direction of services. The majority of states have physical therapist/physical therapist assistant supervision ratio limits in their state laws or Board rules.

Submitter : Dr. Marc Reiswig **Date & Time:** 09/12/2004 04:09:22

Organization : Lewis County Emergency Physicians

Category : Physician

Issue Areas/Comments

Issues 20-29

ASSIGNMENT

It is absolutely imperative that if payments are assigned to an entity other than the physician, that the entity be REQUIRED to provide the practicing physician an exaxt accounting of funds collected on behalf of the physician. Without this, a physician has no means of monitoring for fraudulant biling in his name. This must be REQUIRED, because many practice management groups refuse to employ or contract with a physician if he requests to see what was billed on his behalf. Physicians worried about remaining employed by one of these entities are unable/unwiling to adequately monitor for inappropriate billing practices.

I speak from direct experience, having left a group because although we were 'allowed' to see what was billed on our behalf, we were asked to sign a seperate contract stating that we would in fact not check. Looking into these billings/collection accounts in our name would be considered resigning from the group. I declined to sign such a contract and had to move on to another part of the state as a result.

Submitter : Dr. Daniel Nagelberg **Date & Time:** 09/12/2004 04:09:09

Organization : Coastal Psychology

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

the administration of most psychological tests - particularly IQ and other cogntive measures - is easily handled by a well trained technician who has the skills to work with people. Asking people questions and recording their answers or asking them to complete a task and record their time, performance, etc. does not require a Ph.d. psychologist. Thus, I am writing in favor of extending the privilege of psychologists to supervise psychological testing.

thank you for your consideration.

Submitter : Mrs. Heather Krinock **Date & Time:** 09/12/2004 05:09:08

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers to incident to services in physcians offices and clinics. If this was adopted it would eliminate the ability of qualified health care providers to these important services.

Please see the attachment

CMS-1429-P-1237-Attach-1.doc

Attachment to # 1237

Heather Krinock
National Athletic Trainers' Association
356 W Darby Rd
Greenville, SC 29609

9/12/04

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy – Incident To

Dear Sir/Madam:

I am a certified athletic trainer writing to express my concern over the recent proposal that would limit providers of "Therapy-incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. It would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide patients with comprehensive health care. The patient would be forced to see the physician and separately seek therapy, causing significant inconvenience and additional expense.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in care, greater cost and a lack of local, immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also cost time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement.
- CMS offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. This action could be construed as an unprecedented attempt by CMS to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

It is not necessary or advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS recommendation is a health care access deterrent.

Sincerely,

Heather Krinock MS, ATC, CSCS

CMS-1429-P-1238

Submitter : **Date & Time:** 09/12/2004 06:09:10

Organization :

Category : Physical Therapist

Issue Areas/Comments

Issues 10-19

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I strongly support CMS?s proposal to replace the requirement that physical therapists provide personal supervision (in the room) of physical therapist assistants in the physical therapist private practice office with a direct supervision requirement. This change will not diminish the quality of physical therapy services. Physical therapist assistants hold associate's degrees, licensure, and continuing education that renders them fully capable of carrying out treatment to patients under the direct supervision of a physical therapist. PTA education programs are accredited by the APTA, and most states require passing of a licensure exam in order to practice. I have worked with many PTAs who were very qualified, compassionate professionals, and would not have allowed any other individual to render care to my patients. A PTA can provide the same patient care techniques as a physical therapist including modality application (ultrasound, heat, ice, etc.), exercise instruction and supervision, and hands on treatment such as massage or passive stretching. The PTA carries out the plan of care for the patient as determined by the physical therapist, and will immediately notify the treating physical therapist if the patient is having an adverse reaction or if the treatment program needs to be modified in any way. The physical therapist does not need to be physically present in a room for this to occur. Changing the requirement from personal (in the room) to direct supervision would also protect the privacy of the patient, enhancing protection that a private conversation about a patient's care would be overheard. The change in supervision requirements would NOT affect staffing patterns, as current laws are in place regulating the amount of PTA's that one physical therapist can supervise. Physical therapists are licensed health care providers, and are fully accountable for the delegation and direction of services of these assistive personnel. Thank you for your consideration.

Issues 20-29

THERAPY - INCIDENT TO

I strongly support the CMS's proposed requirement that physical therapists working in physician's offices be graduates of accredited physical therapy programs. Physical therapists are governed by high professional and ethical standards in each state, and are required to hold licensure to practice physical therapy. All entry level physical therapists must hold at least a master's degree as of January 2002, and the profession is moving towards a doctoral degree within the next decade. Physical therapists possess an intimate knowledge of the anatomy and physiology of the human body, with courses such as gross anatomy/cadaver dissection and various disease and pathology courses in their educational curriculum. We use this knowledge every day in determining the proper course of treatment for our patients. In addition, physical therapists are specifically trained in modality application, safety, and appropriateness, which includes such items as ultrasound, electrical stimulation, massage, heat, ice, and traction. Physical therapy is NOT mere application of these modalities, but includes patient education in his/her pathology and how that patient can help to improve his/her condition, instruction in exercise programs that are safe for that individual patient, and constant modification of the treatment program for maximum effectiveness and patient benefit. Currently, some patients in physician's offices are being given what is called physical therapy by staff such as the physician's secretary. This is a highly dangerous and harmful situation for this patient, as a secretary possesses no training of anatomy and physiology, modality application, or exercise instruction, or how to adjust parameters of treatment at a moment's notice should the patient have pain or an adverse response. This patient could be at risk of burns from improperly applied ultrasound or electrical stimulation, personal or further injury from incorrect exercise performance, possible serious injury if certain modalities such as electrical stimulation or diathermy are applied with certain conditions, such as a pacemaker or metal implant, or even death if a patient with other medical conditions such as uncontrolled high blood pressure is allowed to perform exercise without proper monitoring or instruction. A "layperson" in a physician's office cannot provide the services that a physical therapist can provide, with a physical therapist's standard for practice including college education in excess of 5 years and passing a national exam for licensure. If one has an elderly parent requiring physical therapy who is a medicare beneficiary, that individual would demand that his/her loved one be treated by the most qualified individual for maximum safety and functional outcome for the parent. Only a licensed physical therapist can perform physical therapy, and can provide the best quality of rehabilitation for Medicare beneficiaries per Medicare dollar. Section 1862(a)(20) of the social security act clearly requires that for a physican to bill "incident to" for physical therapy services, those services must meet the same requirement for outpatient physical therapy services in all settings. This requirement is that services must be performed by individuals who are graduates of accredited physical therapist education programs. In summary, a licensed physical therapist is the only provider who should be providing physical therapy for Medicare beneficiaries. Any other individual may be placing the patient at high risk for serious injury, ineffective resolution/poor outcome of the rehabilitation, and susceptible to further medical/rehabilitative treatment costing more Medicare dollars. Thank you for your consideration.

Submitter : **Date & Time:** 09/12/2004 06:09:01

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13, 2001

Department of Physical Education and Health
Athletic Training
66 George St.
Charleston, SC 29424

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy- Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I fell compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of ?incident to? services, such as ATC?s in physician offices and clinics: thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Athletic Training Student at College of Charleston

Submitter : Mr. Jeffrey S. Monroe **Date & Time:** 09/12/2004 06:09:48

Organization : Michigan State University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Sirs:

I think it is very important to maintain and to encourage the ability of the Certified Athletic Trainer (ATC) to provide care to all ages of physically active people.

The Certified Athletic Trainer is a well qualified individual who goes through AMA approved curriculums in becoming certified. Over 40 states recognize the value of the ATC in providing health care services in a variety of employment settings.

Jeffrey S. Monroe MS ATC
Head Athletic Trainer
Assistant Director of Athletics
Michigan State University

CMS-1429-P-1241

Submitter : Mr. Calvin Noonan **Date & Time:** 09/12/2004 07:09:34

Organization : Grand Canyon University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Response to CMS ?Therapy-Incident To?

Dear Sir?Madam:

I am an Athletic Training student at Grand Canyon University in Phoenix Arizona and I am writing in response to the proposal put forth by Medicare concerning the use of Athletic Trainers by Medical Doctors. As a student I don?t have the expertise to present the argument on how useful Athletic Trainers are to Medical Doctors, but I can shed some light on the amount of training that is required to become a licensed professional Athletic Trainer. To deny Medical Doctors the use of Licensed Athletic trainers would be a disservice to the Doctors and the Patients the Athletic Trainers are working with.

To become an Athletic Trainer requires a lot of hard work. While I can only speak of the courses I am currently taking in an undergraduate program, over 70% of all Athletic Trainers have received post-graduate degrees in the Health Care field. To deny patients access to health care professionals with such high educational backgrounds is ridiculous. As an undergraduate student, all of our program classes are geared towards learning how to help our athletes return to pre-injury performance levels. Some courses I am currently involved in taking are Therapeutic Modalities, Theory of Prescribing Exercise, and Exercise Physiology. Each of these courses aids in preparing the students to deal with rehabilitating patients. Also each student is required to complete a minimum of 1,000 hours of supervised clinical involvement. Each student is required to complete hours in a variety of settings other that just a collegiate training room. Physical Therapy clinics tend to use Athletic Trainers as assistants because they are uniquely qualified to help the Therapist in the rehabilitation process. The fact that Physical Therapy clinics hire Athletic Trainers, but are willing to prevent them from working for Medical Doctors seems to be a little hypocritical to me. The education that each student receives as an Athletic Trainer makes us qualified to work is clinical settings, to state otherwise is to say that the educational process of Athletic Training programs is severely lacking.

Another important point to consider will be whether or not the quality of care given to patients is as good as it can be. Replacing Athletic Trainers with a Physical Therapy Assistant will, in a lot of cases, lessen the knowledge involved in the decision making process. The education required by PTA is a much shorter and less involved process that what is required by Athletic Training students. Not allowing patients access to advanced knowledge could possibly jeopardize the patients future as well. It seems to me the real reason behind this proposal is the money that could be involved for the physical therapists. At any price, the patients health is not worth it. As a future physical therapist I am confident in the abilities of Athletic Trainers and I will be comfortable in hiring one to participate in helping with patients.

I know as a student I am not in a great position to argue this proposal very strongly, but I have seen Athletic Trainers in the clinical settings and I believe we can continue to be successful working together with Doctors and Physical Therapists. It is my hope that the focus would be on what is best for the patients as opposed to who can make the most money.

Sincerely,

Calvin Noonan, ATS Grand Canyon University

Submitter : Ms. Katie Hohn **Date & Time:** 09/12/2004 07:09:45

Organization : James Madison University

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

PLEASE SEE ATTACHMENT

CMS-1429-P-1242-Attach-1.doc

September 12, 2004

Attachment to # 1242

To The Centers for Medicare and Medicaid Services:

I am writing to express my concern about the possibility of the change in Medicare regulations that wouldn't allow physicians to be reimbursed for therapies administered by an ATC in a physician's office.

Certified athletic trainers are equally, if not better, qualified as PTs, PTAs, OTs and OTAs at performing rehabilitation services in a physician's office. According to the O*NET OnLine and the Department of Labor who researches the level of education and preparation of specific duties, ATCs have received a Specific Vocational Preparation of 8+. This is higher than that of occupational therapists who received a 7 to <8, and OTAs and PTAs who received 4s. We, certified athletic trainers, clearly are well prepared to handle the rehabilitation tasks demanded of us in physician offices.

Not only did O*NET OnLine and the U.S. Department of Labor rate our job as having a good level of education, but in the classroom in some of my undergrad classes, often times there were PT students and OT students in the same exact class with myself and other athletic training students.

Upon completion of our undergraduate education, we are required to sit for a national certification exam. This tests and verifies our knowledge, preparation and clinical skills needed for our every day work as an athletic trainer (including rehabilitation).

Once we pass the national certification exam, ATCs are still required to meet the "continuing education requirements." Many states do not require PTs to meet any kind of continuing education requirement.

Not only are we equally qualified to provide rehabilitation services, but ATCs also have a wide variety of experience in working with many different populations in the area of rehabilitation. Outside of the physician's office, ATCs are running detailed and effective rehab programs in the athletic training room, sports medicine clinics and other facilities daily.

I sincerely hope you take these ideas into consideration before any changes are made to Medicare regulations concerning rehabilitation services of ATCs in physician offices. Thank you for your time.

Sincerely,

Katie Hohn
Athletic Training Student
James Madison University

Submitter : Dr. Mark Kiefner **Date & Time:** 09/12/2004 07:09:51

Organization : Dr. Mark Kiefner

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I very strongly support the rule change that would allow Psychologists to provide general supervision to technicians who perform psychological or neuropsychological diagnostic testing. This rule change would allow the professionals who are best trained in the area of psychological testing to provide the most appropriate level of supervision. Thank you. Mark G. Kiefner, Ph.D.

Submitter : Josh Vander Velden **Date & Time:** 09/12/2004 08:09:31

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

This proposed change is ludicrous and merely done to limit the scope of care of competing professionals against the physical therapy profession. It certainly does not take into account our unique strengths and abilities. The only result to the passing of this proposal is providing lesser care to the patient in the end.

CMS-1429-P-1244-Attach-1.doc

9/12/2004

Attachment to # 1244

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will

suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.
- The only objective that can be reached by this decision is that patients will not be allowed to seek the best possible care and be covered and that will provide a lower standard of care for CMS patients.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Submitter : Marina Haynes **Date & Time:** 09/12/2004 09:09:40

Organization : Marina Haynes

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please reconsider this revision. You will restrict the ability of Certified athetic trainers and will damage the profession. I support the ATC profession.

CMS-1429-P-1246

Submitter : **Richard Barton** **Date & Time:** **09/12/2004 09:09:12**

Organization : **Private party**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

September 11, 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to update the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. The payment differential for physician services in Santa Clara County, less than 20 miles from where I live, is over 25% greater than for services paid to my doctor in Santa Cruz County which is rated among the 10 highest cost of living areas in the country. I understand that this is by far the greatest such differential in the country. It is not safe for people to have to drive over a winding mountain road to locate a doctor because so many have left this community as a result of these inequities.

This needs to stop. We are losing doctors and important specialties. I cannot understand how this is allowed to continue since Congress has delegated to CMS the responsibility to manage payments to physicians. Continued postponement of this long-needed reform is ill-advised and inappropriate.

Sincerely,

Richard and Carol Barton
505 El Solyo Heights Drive
Felton, CA 95018
Phone: (831)335-7073

Submitter : Dr. Patricia Ann Pimental **Date & Time:** 09/12/2004 10:09:00

Organization : Neurobehavioral Medicine Consultants, Ltd.

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Please support the use of technicians and non-doctored graduate(doctoral) students as administrators of psychological and neuropsychological tests under the superviion of a licenced doctor of Psychology (Ph.D or Psy.D).

CMS-1429-P-1248

Submitter : **Date & Time:** **09/12/2004 10:09:34**

Organization :

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1248-Attach-1.doc

Attachment to # 1248
September 12, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

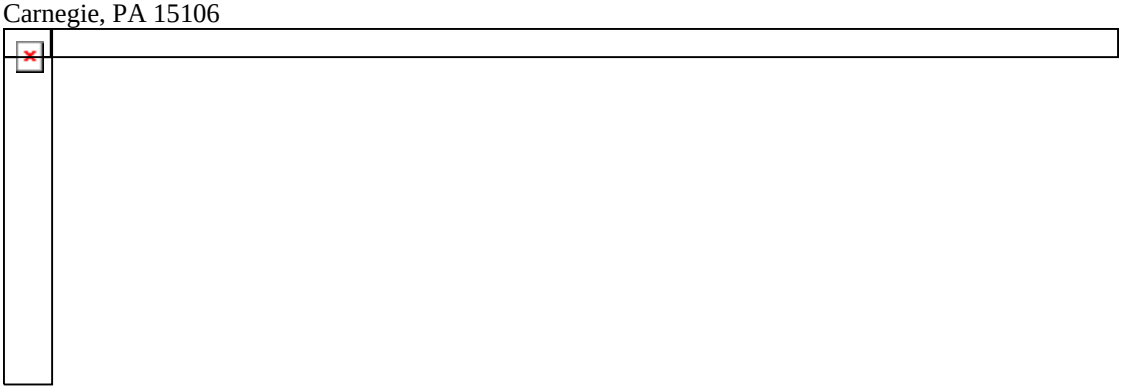
- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide

these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Robert E. McCabe Jr., MS, ATC
89 Clairview Drive
Carnegie, PA 15106



CMS-1429-P-1249

Submitter : **Date & Time:** 09/12/2004 11:09:24

Organization :

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

"Therapy-Incident To"
In reference to the August 5 proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005"

Six years ago I started on my education to become a physical therapist. Over 200 college credits later, I?m finally getting a grasp of the intricate detail involved in caring for the human body. The first thing that students learn about the human body is that it is a hierarchy: cell, tissue, organ, system, organism. You cannot affect one without affecting the other. Only through research and education, both in the classroom and in the clinic, can we even begin to understand the effects that we are incurring on the human body. On a human?s body. Almost any person can learn how to work a machine, but only a person with a true vested interest in the product will learn how it works. Physical therapists have that vested interest. They have taken the time to learn not just how to turn on the power button, but what that treatment will do to that cell, that system, that person. Allowing those who are unqualified to provide physical therapy services is an injustice not only to physical therapists, who have worked tediously to learn the skills of this health care profession, but more importantly to the patients, who deserve the best possible treatment we can offer.
Six years ago I started on my education to become a physical therapist. I will never stop learning. Will you?

Sincerely,
Erika Koepsell, SPT

Submitter : Tasha Vorm **Date & Time:** 09/12/2004 11:09:03

Organization : NATA

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1250-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Tasha A. Vorm ATC, LAT
317 H Avenue
Nevada, Iowa 50201

Attachment to # 1250
September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient

in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Tasha A. Vorm ATC, LAT

CMS-1429-P-1251

Submitter : Miss. wendy stevison **Date & Time:** 09/12/2004 11:09:27

Organization : NATA

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

Please consider the following:
1. There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide any "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgement of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interest of the patients.

2. Athletic trainers are highly educated. ALL certified or licensed athletic trainer must have a bachelor's or master's degree from an accredited college or university. 70% of all athletic trainers have a master's degree or higher.

3. Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

4. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. For CMS to even suggest that athletic trainers are unqualified to provide the same services to a Medicare patient who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

5. To allow only physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professionals deemed qualified, safe and appropriate to provide health care services.

6. CMS, inproposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

7. CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physicians office visit. In fact, this action could be construed as an unprecedented attempt by CMS to seek exclusivity as a provider of therapy services.

8. These issues may lead to more physician practices eliminating or serverly limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes pproposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Wendy Stevison M.S. ATC/L

CMS-1429-P-1252

Submitter : Miss. Angela Pegram **Date & Time:** 09/13/2004 12:09:42

Organization : NATA

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I believe that revising the plan would eliminate assistance from individuals who are quailified to perform such services. Athletic trainers attend school to perform such duties as to help an individual in a physical therapy center.

CMS-1429-P-1253

Submitter : Dr. josef aponte **Date & Time:** 09/13/2004 12:09:27

Organization : American Academy of Emergency Medicine

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

It is imperative that doctors not just be allowed access to this information but should be given this information on claims filed on their behalf automatically on a monthly basis. This removes the process of a physician having to identify himself as the one requesting this access and exposing himself to repercussions. If this right is not provided to the physician then the physician should not be held liable for fraudulemnt claims, only the biling company should be held liable. Thank you for the opportunity to voice my opinion.

CMS-1429-P-1254

Submitter : Mr. Michael Cashin **Date & Time:** 09/13/2004 12:09:27

Organization : UNH Athletic Training

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To whomever this may concern, i strongly urge you not to adopt this new policy that would restrict who physicians can hire to provide rehabilitation therapy services to their patients. Speaking as a future athletic trainer, i feel that doctors need the option of employing certified athletic trainers in order to provide the best care for the patients that he or she is working with. The bottom line is that different environments and different kinds of patients call for a different kind of healthcare professional. You wouldn't call up a carpenter if you had a problem with your plumbing, so why a physical therapist for an athletic trainer? Both the carpenter and the plumber are experts at what they do to help repair your house, but they deal with different aspects of the way the house functions. Certain jobs call for certain people. Thank you for your time and please consider this in making a decision on this new policy.

CMS-1429-P-1255

Submitter : S Likes **Date & Time:** 09/13/2004 01:09:55

Organization : S Likes

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Comments re: August 5th proposed rule on "revisions to payment policies under the physican fee schedule for the year 2005."

I am a physical therapist. I have a Master's degree and have been practicing for over 3 years.

I STRONGLY support this proposal and I urge you to move forward with it.

Physical therapists (or PT assistants under supervision of physical therapists) are highly skilled professionals with extensive education and training in rehabilitation after illness, injury or dysfunction. Every day, we work hands-on with people who are often at risk of VERY SERIOUS INJURY in the hands of someone who is not qualified. Not only does a therapist have specific training in the treatments they provide (that which no one who is not a physical therapist would be able to perform, hence why it takes at least 5 and a half years to become a therapist), but also they must have an extensive medical education in order to understand risks, potential complications, signs and symptoms of problems, precautions and contraindications, and to decide appropriate therapy regimens. THIS CANNOT BE SAFELY DONE BY AN UNTRAINED INDIVIDUAL!!! Worst case senario, someone could be permanently injured or even die. Best case scenario, some people may make it through their "therapy" with an untrained individual, but they will have put themselves at an even greater risk of further injury! If someone with a very basic problem manages to come out of this so-called "therapy" either the same or even a little better, it will have taken longer and been less successful of a recovery than it otherwise would have been with a trained, professional physical therapist, + ultimately it will cost Medicare much more to pay for the care of these patients.
I personally have witness serious threats to patients at the hands of non-therapists, some of whom are other health care professionals, but they lack the knowledge of the therapist when it comes to rehabilitation and physical functioning.

I have spoken with many physicians who are happy to admit they consider physical therapists the experts in the role of rehabilitation. Many doctors will give open referrals to therapists and say things like "do your thing" or "you're the expert." Those physicians who think they are qualified to provide physical therapy services, I fear, are thinking only of collecting payment for it, + are being negligent toward patient safety and quality of care.

I have seen:

Patients be issued canes, walkers, and crutches with no training (or improper training) on how to use them. These devices were issued by nurses, pharmacists or doctors. Using an assistive device improperly dramatically increases your fall risk + can lead to further musculoskeletal damage like back and neck pain. Do you know which hand a cane is supposed to be used on? Is it the side of the bad leg or the good leg? I can tell you most doctors don't know, yet they give out this equipment all the time! I can also assure you your physical therapist DOES know! Do you know how to go up and down steps on crutches? Have you ever done it? Should patients with hemiplegia get out of bed on their strong side or their weak side? Should amputees transfer toward their good leg or their amputated leg? Most nurses, doctors, and exercise physiologists don't know these few questions (+ there are many more), let alone someone with no education!

How would an untrained individual decide the appropriate modalities to use? Will they know that using ultrasound can spread cancer? Will they know not to use electrical stimulation with a pacemaker? I Hope they will, but I doubt it.

These are just a few of MANY, MANY important details the skilled therapist knows in order to safely + effectively care for our patients.
I URGE you to support this revision to ensure the safety of those who come to health care professionals for HELP and to HEAL. We must be aware of the dangers posed by those who are unqualified!

CMS-1429-P-1256

Submitter : **Date & Time:** 09/13/2004 02:09:37

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir or Madam,
I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in the physician clinics. If adopted, this would eliminate the ability of qualified health care professional to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process please consider the following -

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers)whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearnces, this is being to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statuatory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

Athletic trainers are employed by almost every US post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, asses, treat, and rehabilitate injuries sustained during athletic competition. For CMS to even suggest that athletic trainers are unqualified to provide these services to a Medicare beneficiary who becomes injured as a result of running in a local 5k race and goes to their local physician for treatment of that injury is outrageous and unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Amy Thorp
Athletic Training Student

108 Hemenway Street Apt 10
Boston, MA 02115

CMS-1429-P-1257

Submitter : **Date & Time:** 09/13/2004 03:09:40

Organization :

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a Physical Therapist in Illinois. I have been in practice for 7 years now working in a hospital based outpatient clinic as well as inpatient and SNF. Upon reviewing the proposed rule changes by CMS, I am in full agreement with with proposal establishing requirements for individuals who provide P.T. services incident to a physicians' practice. To me, it makes perfect sense. If an individual is claiming and submitting billing for Physical Therapy services for reimbursement to Medicare and is not a licensed Physical Therapist or Physical Therapist Assistant, it is wrong. That is not to say that another licensed professional cannot work for a physician's office, but they should be performing the services to which they are licensed, not physical therapy. Only PT's and PTA's are specifically trained to provide Physical Therapy services. Anyone else claiming to provide PT services without the proper licensure/accredidation is fraudulent.

Over the years, CMS has become increasingly stringent on the PT profession, especially in the relm of student provided services. I feel that it is crucial that students be allowed to practice and learn the skills they will need under training from a licensed PT practicioner. Therefore I do not agree with the current restrictions on student services by the CMS. With that said, how can CMS allow untrained, unqualified personnel provide 'skilled therapy services' and get reimbursed for it just because they are in a physicians office? This just leaves the door open for abuse of the Medicare system and a significant detriment to the public. They would be using up precious Medicare cap dollars on unqualified therapy interventions. With CMS being so restrictive of the skilled need for therapy intervention and crucial student services and they are allowing 'anyone' to bill for Physical Therapy services just because they are working in a physician's office. I think this ruling is LONG OVERDUE. It just makes sense. If you are claiming to provide Physical Therapy, you must be a Physical Therapist, or a Physical Therapist Assistant supervised by a Physical Therapist. It is that simple. Section 1862 (a)(20) of the Social Security Act clearly requires that in order for a physician to bill 'incident to' for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus the services must be performed by individuals, who are graduates of accredited professional physical therapy programs. Unfortunately this doen't always happen.

I thank you very much for your time and appreciate your consideration in this matter.

Submitter : Miss. Rachel Purdum **Date & Time:** 09/13/2004 04:09:55

Organization : Miss. Rachel Purdum

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

Please seee attached file

CMS-1429-P-1258-Attach-1.doc

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

CMS-1429-P-1259

Submitter : Cindy Seminoff **Date & Time:** 09/13/2004 12:09:06

Organization : Cindy Seminoff

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY ?incident to? service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

? As a Program Director in the educational setting I know that Athletic Trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

? To allow only physical therapists, occupational therapists, and speech and language pathologists to provide ?incident to? outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide ?incident to? outpatient therapy in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.

?Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

?These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients.

Submitter : Mr. Norman Wathen **Date & Time:** 09/13/2004 12:09:38

Organization : Youngstown State University

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

I would like to express my support for the additon of certified athletic trainers (ATC) to the list of medicare therapy/rehabilitation providers. Studies have demonstrated that ATC's provide a level of care the equal to other rehabilitation providers and require shorter periods of care for recovery. In todays ever increasing health care costs this is a critical factor favoring the inclusion of ATC's as medicare providers. The economics of health care support the inclusion of ATC's as medicare therapy providers.

CMS-1429-P-1261

Submitter : Ms. Lindsey Drake **Date & Time:** 09/13/2004 12:09:29

Organization : Rowan University

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Physicians should be able to determine the proper course of treatment for their patients. Athletic trainers are as well equipped educationally as Physical therapists or Occupational therapists to provide rehabilatative services, especially when sports related injuries are involved.

Submitter : Dr. Robert Newby **Date & Time:** 09/13/2004 01:09:41

Organization : Medical College of Wisconsin

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

I am writing to strongly support the rule change. I agree with the comments sent by two organizations of which I am a member, the Division 40 (Clinical Neuropsychology) of the American Psychological Association, and the American Academy of Clinical Neuropsychology.

CMS-1429-P-1263

Submitter : Mr. Gary Porter **Date & Time:** 09/13/2004 01:09:35

Organization : University of Florida

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:
I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.
During the decision-making process, please consider the following:
? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
? Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care.
? To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
? CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
? These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.
In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.
Sincerely,
Gary K. Porter, Jr. MS-ATC/L
320 SE 1st Street, Apt. A20
Gainesville, FL 32601

CMS-1429-P-1264

Submitter : Dr. Noah Wasielewski **Date & Time:** 09/13/2004 01:09:19

Organization : COllege of Charleston

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To whom it may concern:

As a Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of 'incident to' services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of 'incident to' services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Dr. Noah J. Wasielewski, PhD, ATC, CSCS
Assistant Professor
College of Charleston
Charleston, SC 29424

CMS-1429-P-1265

Submitter : John Mansfield **Date & Time:** 09/13/2004 01:09:32

Organization : The Unversity of Southern Mississippi

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1265-Attach-1.doc

Amos Mansfield, MBA, ATC, LAT

Assistant Athletic Trainer

The University of Southern Mississippi

118 College Drive #5017

Hattiesburg, MS 39406

Attachment to # 1265

September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Amos Mansfield,MBA, ATC, LAT

CMS-1429-P-1266

Submitter : John Mansfield **Date & Time:** 09/13/2004 01:09:23

Organization : The University of Southern Mississippi

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

please see attached file

CMS-1429-P-1266-Attach-1.doc

Amos Mansfield, MBA, ATC, LAT

Assistant Athletic Trainer

The University of Southern Mississippi

118 College Drive #5017

Hattiesburg, MS 39406

Attachment to # 1266

September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

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- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

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- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Amos Mansfield,MBA, ATC, LAT

Submitter : Dr. James KOSS, MD FAAEM **Date & Time:** 09/13/2004 02:09:44

Organization : AAEM & Mobile MD

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

I have been a physuician practicing in Emergency Rooms for 35 years.

Initially I controlled my billing. I knew what I ahd done for the patient and I controlled what the patient or insurer would pay.

Along came Mega-Corporations in Medicine. I lost all control over what I billed and I lost knowledge of what I billed. In fact I had no ability to affect the billing at all. An unknown "biller" did all this "for me."

I was informed I was liable for the billing, any fraud or over billing was my fault yet I never saw what was billed nor was I able to access this information.

I was responsible but not permitted to control this! I never know if billing is ethical or not! I am liable. THIS IS WRONG.

When medical care is separated from the economics of Medicine and turned over to a business devoid of Professional Control there is always the risk of greed or simple error.

The only way to correct this is to return to the physician the right to control, or at a very minimum, oversight, of the billing process, this later choice being a very bad second alternative.

Leaving this choice to those who are not the suppliers and paid by the recipients to increase "billings" is a dangerous choice. To then burden the health provider (Doctor) with the risk of error and punishment is patently a bad idea.

I request you examen and change the rules and to forbid such commercial institutions to control the billing process. it is only correct as well as good business practice to return to the physician what is and should be the health care deliverer's rights to control and regulate.

In addition: To increase patient privacy this change removes access to patients' records from non-professionals who read these supposedly private medial reports to determine what should be billed.

Yours in trust,

James Koss, MD FAAEM

CMS-1429-P-1268

Submitter : Dr. Howard Blumstein **Date & Time:** 09/13/2004 02:09:14

Organization : Wake Forest University

Category : Physician

Issue Areas/Comments

Issues 20-29

ASSIGNMENT

I am a member of the American Academy of Emergency Medicine. Our organization has suggested that the following laguage be added to the section addressing assignment of payment:

"The entity shall provide the supplier with itemized monthly reports of the claims submitted and remittances received on behalf of the supplier."

I agree wholeheartedly with this suggested addition. AAEM has been working diligently for several years to address the problem of contract management groups, and the newer entities called physician practice management groups, attempting to prevent physicians from being aware of what is billed and collected in their name.

The wording proposed by CMS certainly affirms each physician's right to access this information. We are concerned, however, by the potential for contract management groups (entities) to create barriers designed to interfere with that right. Based on past experience, examples of which have been provided to CMS, we are concerned that some of these groups may create unreasonable hurdles or actually punish physicians attempting to exercise their right to access billing and collections data. We are aware of physicians who have been fired for making such requests.

The changes proposed by AAEM would simply require collecting entities to provide the physician with these data regular basis without creating the potential for bad behavior on the part of the entities. I do not believe that such a reporting requirement would represent an undue burden on the entities as this data is all computerized and printing it out regular basis would be a simple job.

I greatly appreciate this opportunity to submit my comments. Thank you for your consideration.

Submitter : Mrs. **Date & Time:** 09/13/2004 02:09:40

Organization : Mrs.

Category : Occupational Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill "incident to" for physical/occupational therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical/occuaptional therapist education programs.

THERAPY STANDARDS AND REQUIREMENTS

The delivery of so-called occupational therapy services by unqualified personnel is harmful to the patient. Occupational therapists are professionally educated at the college or university level accredited by the Commission on Accreditation of Occupational Therapy and must be licensed in the state I live in. Occupational Therapists receive significant training in anatomy and physiology, have a broad understand of the body and it's functions and have completed comprehensive patient care interships. The delivery of so call occupational therapy services by unqualified personnel is harmful the patient. Patients may be instructed in exercise that is contradicted with their medical condition and actually harm the patient rather than help them.

THERAPY TECHNICAL REVISIONS

I am in strong support for CMS's proposed requirement that occupational therapists working in physicians offices be graduates of accredited professional occupational therapy programs. Occupational therapists and occupational therapy assistants under the supervison of occuaptional therapists are the only practitioners who have the education and training to furnish physical therapy services. Unqualified personnel should not be providing occupational therapy services.

Submitter : Mr. Brian Cammarota **Date & Time:** 09/13/2004 02:09:06

Organization : National Athletic Trainer's Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File

CMS-1429-P-1270-Attach-1.doc

Brian Cammarota, MEd, ATC
14 Rossiter Ave.
Phoenixville, PA 19460

Attachment to # 1270

September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
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- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license

and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Brian Cammarota, MEd, ATC
Philadelphia Phillies
Minor League Athletic Trainer
215-356-8354
bcammarota@phillies.com

Submitter : Dr. SAMUEL GLASSNER **Date & Time:** 09/13/2004 03:09:56

Organization : Dr. SAMUEL GLASSNER

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Re: Part 424 - Conditions for Medicare Payment (69 FR 47580).
The following language should be added to 424.80 (2)(d)(2) - "The entity shall provide the supplier with itemized monthly reports of the claims submitted and remittances received on behalf of the supplier."
The addition of such language will enhance program integrity oversight and will decrease the need for physicians to seek assistance from CMS in this area. This will be a direct cost savings to CMS.

Submitter : Dr. Gary Gaddis **Date & Time:** 09/13/2004 03:09:56

Organization : Metro Emergency Physicians, LLC

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

I am not sure how this response would be classified, given the issues listings above.

I would like to address, in this proposed regulation, Part 424-Conditions for Medicare Payment (69 FR 47580).

I believe, as does an organization to which I belong, the American Academy of Emergency Medicine, that it would be beneficial to add to 424.80 (2)(d)(2) this language:

"The entity shall provide the supplier with itemized MONTHLY (my emphasis added) reports of claims submitted and remittances received on behalf of the supplier."

The "supplier" is the physician treating patients.

My rationale for my beliefs is as follows:

Coding and billing is a complex area of expertise. Most emergency physicians (EPs) rely on trained medical coders to code their claims for payment. Despite this complexity and this common practice of physicians having other trained professionals code claims for them, the physician is ultimately potentially at risk for penalty, if fraudulent claims are received, as I am sure you are aware.

Many EPs work for "contract management" groups (CMGs), which contract with hospitals to provide physicians to staff their emergency departments. Though it is reasonable for these firms to extract a reasonable fee for their management services, the fee extracted can be so great that fees intended to meet physician expenses end up being highly concentrated in the hands of CMG management and/or their shareholders. This is surely contrary to the intent of the Medicare program.

Though I am an EP who does not work for a CMG, I am familiar with the typical practices of CMGs through conversations with friends and colleagues. CMGs have an incentive to maximize reimbursements due to their responsibility to shareholders (see above), and due to (in my opinion) the greed of the management of CMGs.

This places the individual physician who treats patients at risk for unknowingly committing Medicare fraud, because, under current law, although the physician provides the treatment and bears the greatest risk for potential false claims, the CMG would benefit from any inflated billings. It strikes me as Orwellian to not design and implement requirements to permit an EP to protect their interests by having unfettered access to billing data submitted on their behalf. I repeat, the doctor bears most of the risk and the CMG bears most or all of the potential benefit, and less risk, for inflated billings, because current regulation holds the physician responsible for the billings submitted in their name. (Of course, as illustrated by the case of the CMG called EPMG from Oklahoma City a few yr prior, CMGs are liable for fraud, also).

Physicians need access to billing statements sent in their name, so they can spot-check coders' work for accuracy (or submit a sample of bills for periodic audit), as well as to address the portion of CMG revenues that the physician generates. Eps need access to billings to protect themselves from fraud committed by others regarding services these Eps provide.

Most CMGs do not freely share data regarding billings done in their contracted physicians' names. EPs working for CMGs NEED to have REGULAR, FREQUENT, MANDATED access to billing data submitted on the behalf of the physician, as a means to ensure adequate access by the EP to billing data. Many CMGs have historically stonewalled EP attempts to obtain relevant billing data, because of fears that the EP may find out the portion of revenue extracted by CMGs for "management" purposes. EPs HAVE HAD EMPLOYMENT TERMINATED for attempting to obtain meaningful data about billings submitted in their behalf. Surely it is not the intent of the Medicare program to subject EPs to potential job loss when they seek to review the veracity of claims submission information sent to Medicare on their behalf!

Thank you for the opportunity to comment.

Gary Gaddis MD PhD
913-221-5307
ggaddis@saint-lukes.org

Submitter : Dr. Keith Marill **Date & Time:** 09/13/2004 03:09:45

Organization : Massachusetts General Hospital

Category : Physician

Issue Areas/Comments

Issues 20-29

ASSIGNMENT

Dear Sirs,
I am an emergency physician who practices at Massachusetts General Hospital in Boston, MA, and trains future emergency physicians as a faculty member in the Harvard Affiliated Emergency Medicine Residency Program. I have been practicing emergency medicine for over 10 years. I am writing to strongly support the wording of section 424.80, "Prohibition of reassignment of claims by suppliers" requested by the American Academy of Emergency Physicians. The proposed regulations currently state: "(2) Access to records. The supplier furnishing the service has unrestricted access to claims submitted by an entity for services provided by that supplier." This phrase is good and appreciated, but it is not quite good enough. We believe the regulations should state that "an entity submitting claims on behalf of a supplier is required to provide a copy of these claims to the supplier." Isn't it only fair that a physician should always see what is billed in his or her name, particularly when the physician is liable for any billing errors? Regardless of any claims to the contrary, if this stipulation is not required, barriers will be placed to physician access to this information by many billing entities. Everyone in our field knows this to be the case from direct experience. I respectfully request that the wording of this section be changed in the manner requested by the American Academy of Emergency Physicians. Please feel free to contact me if you wish to discuss this further.

Sincerely,
Keith A. Marill, M.D.

CMS-1429-P-1274

Submitter : Mr. Vladimir Radivojevic **Date & Time:** 09/13/2004 03:09:31

Organization : Goshen Hospital

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to express my strong opinion that CMS continue to retain the ruling of 'Incident To'. Physical therapy services should only be provided by clinicians that have received formal training in physical therapy services such as a physical therapist (PT) or physical therapy assistant (PTA). It is only the PT or PTA that has received the necessary education to correctly evaluate, determine the proper course of therapy treatment, and deliver the appropriate therapy treatment. Individuals who have not received such formal training are at potential to causing the patient harm, as often patients conditions could change, requiring a therapist to change the course of treatment. Only a clinician with the appropriate clinical education understands the appropriate treatment protocol per patient diagnosis and symptoms. I strongly urge you to keep the 'Incident To' ruling in effect.

Submitter : Mr. Jacob Klein **Date & Time:** 09/13/2004 04:09:52

Organization : Trinity Regional Medical Center

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attached item

CMS-1429-P-1275-Attach-1.doc

Jacob Klein ATC/L
Trinity Regional Medical Center – Highland Park Center
821 S 25th St
Fort Dodge, IA 50501

Attachment to # 1275
September 10, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Jacob Klein

Submitter : **Date & Time:** 09/13/2004 04:09:58

Organization : NATA

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Scott Byrd, ATC/L, ACI
Fort Sanders Sports Medicine
709 Middle Creek Road
Sevierville, TN 37862

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

? ?Incident to? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY ?incident to? service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this

could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

? Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care.

? Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees

Submitter : Ms. Rebekah Shields **Date & Time:** 09/13/2004 04:09:08

Organization : VAMC Nashville

Category : Other Technician

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Dear Centers for Medicare and Medicaid Services:

I am a neuropsychology technician. The purpose of this letter is to express my very strong support for the Centers for Medicare and Medicaid Services? proposed rule change (as outlined in CMS-1429-P) that addresses the supervision of psychological and neuropsychological testing by doctoral-level psychologists.

As a technician I have completed master?s level education and training in psychological and neuropsychological assessment and diagnosis. I was trained by doctoral-level psychologists. It is ludicrous to think that a law is in place mandating that in order for my services to be paid for they must be supervised by a physician without any place for the appropriate supervision by a psychologist. Physicians have no expertise in what I do. They don?t take boarded and license exams on how to administer and interpret neuropsychological and psychological data. Many, if not most, physicians have not even had one class, symposium or practicum on psychological and neuropsychological testing, never mind a doctorate degree in the subject. Requiring that a physician supervise me performing neuropsychological assessment makes absolutely no sense. I am trained in the field of neuropsychological assessment by psychologists and neuropsychologists and should be supervised by such experts, rather than a physician who has no training whatsoever in the field.

Thank you for the opportunity to comment on this very important matter.

Sincerely,

Rebekah M. Shields, M.S.

CMS-1429-P-1278

Submitter : **Dr. Mark Wainer** **Date & Time:** **09/13/2004 04:09:23**

Organization : **Santa Cruz Medical Foundation**

Category : **Physician**

Issue Areas/Comments

Issues 1-9

GPCI

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to updated the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. The payment differential for physician services in a county less than 20 miles from where I live is over 25% greater than for services that I receive from my doctor. I understand that this is by far the greater such differential in the country. This crisis is compounded by the fact that private insurers and HMO?s base their payments to us on Medicare payment rates so these payments are lower than payments made to doctors 20 minutes from here.

This needs to stop. It is difficult to recruit new doctors to replace those who retire or leave. Santa Cruz is rated as the least affordable place to live in the United States. The median home price is over $585,000. We are losing doctors and important specialists I believe that Congress has delegated to CMS the responsibility to manage the payment to physicians. I believe that no other county in the U.S. is in greater need of reform than our county. It is your responsibility to correct this problem. Continued postponement of this long-needed reform is ill-advised and inappropriate and will continue to degrade health care in this county.

Sincerely,

Mark B. Wainer M.D.

CMS-1429-P-1279

Submitter : Dr. William Heegaard **Date & Time:** 09/13/2004 05:09:31

Organization : Heenepin County Medical center

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I am pleased with the language suggested under ?424.80. However, I strongly believe that the addition of the following language to ?424.80 (2)(d)(2) Access to records would be of immense benefit:

"The entity shall provide the supplier with itemized monthly reports of the claims submitted and remittances received on behalf of the supplier."

The proposed language for ?424.80 indicates that the supplier shares joint responsibility for Medicare overpayment with the entity submitting claims on their behalf. Given this liability, AAEM believes that claims information should be given directly to the supplier. The Centers for Medicare & Medicaid Services (CMS) is focused on enhanced program integrity oversight. Physicians are interested in protecting themselves from involvement in upcoding activities. Successful achievement of these goals will be improved by the addition of this language. This is especially true in emergency medicine where entities that submit claims on behalf of emergency physician suppliers have already been proven to engage in activities of concern (1). We also believe that requiring the entity to provide a monthly report will not increase costs to the Medicare program.

While I support the language of "unrestricted access to claims," I believe that the additional language is also appropriate given the nature of contractual relationships between physician suppliers and entities. Contracts between physician suppliers and entities generally allow for termination of the physician without cause or due process. This situation has a chilling effect on physician attempts to access the records regarding claims activity. AAEM has previously supplied CMS with information detailing the actual termination or threat of such for physicians who requested access to their claims data. Other strategies employed by entities include requiring physician suppliers to travel to corporate headquarters to examine this data. Such circumstances may create an environment where the ability of a physician to participate in complying with program integrity efforts exists only on paper.

While the language proposed by CMS does give physicians an avenue of recourse, AAEM's suggested addition will decrease the need for physicians to seek assistance from CMS in this area. Our proposed language would lessen the potential need for future, costly investigations by CMS when physicians meet resistance when attempting to exercise their right to "unrestricted access." We also believe it our proposal will have the effect of improving Medicare program integrity.

I with the The American Academy of Emergency Medicine, a national specialty society representing approximately 5,000 emergency physicians, urges you to consider carefully our suggestion in the interest of our physician members. If you have any questions regarding our comments or would like more information, please do not hesitate to contact us.

Sincerely,

William G Heegaard, MD

Dept of Emergency Medicne

HCMC

Minneapolis, MN 55417

Submitter : Mr. Alan Howell **Date & Time:** 09/13/2004 05:09:30

Organization : The Howell Rehab Center

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

August 26, 2004

Mark B. McClellan, M.D., PHD
Administrator
Centers for Medicare and Medicaid Services
US Department of Health & Human Services
Attn: CMS-1429-P
PO Box 8012
Baltimore, MA 21244-8012

Re: Medicare Program Revisions to Payment
Policies under the Physician Fee Schedule
Per Calendar year 2003

Dear Dr. McClellan;

I am a physical therapist here in Cincinnati, Ohio, who has been practicing for 27 years. I have been a certified athletic trainer for 25 years. I currently own 3 physical therapy clinics here in Cincinnati and have in the past been fortunate to teach in both the athletic training and physical therapy programs that are in our immediate area. I would like to reference the therapy ?Incident To? statement that I am in support of. I believe that physical therapists are the only persons qualified to supervise physical therapy assistants to deliver physical therapy services. A physical therapist?s education and qualifications are bar none the person that is qualified to perform a physical therapy assessment, administer modalities, and prescribe the appropriate exercise program.

Unfortunately, in many physician offices, unlicensed support personnel or individuals without a physical therapy degree are used to administer modalities and call this physical therapy. I believe that this is a potentially harmful situation to the consumer, as well a disservice to the consumer since they believe that they are receiving physical therapy. The consumer potentially could exhaust physical therapy benefits without every having the opportunity of seeing a physical therapist.

As an individual that has both physical therapy and athletic training credentials, I understand the education and experience of both. As an athletic trainer I have specialized skills to do on-field examinations and acute injury assessment that a physical therapist does not. On the other hand, a physical therapist has specialized skills to deal with the Medicare population and the co-morbidities

that exist in this population athletic trainers do not. Rehabilitation in the population that Medicare serves athletic trainers do not have the educational background and/or skills to deal with this specialized population.

I have been encouraged by the Athletic Trainers Association to write you to encourage the modification of the ?Incident To?. I would urge you to keep the proposed wording of the ?Incident To? services that must be furnished by personnel who meet the standards, such as a physical therapist and a physical therapist assistant, since they are the only group trained for this population

Thank you for your consideration of my comments and will be watching closely for the outcome.

Sincerely,

Alan J. Howell, PT, SCS, ATC

AJH/blh

CMS-1429-P-1281

Submitter : Dr. Steve Gabaeff **Date & Time:** 09/13/2004 05:09:49

Organization : AAEM

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

We should seek a mandatory report generated by the CMG to each physician, each month, of all billings, to be distributed automatically so that asking for it does not become part of the dynamic. There is jusitfiable fear that such requests will lead to retribution as well as the discovery of fraudulent billing which if reported will generate further retribution. EDMD's assuming responsibility for billing and then living in fear of asking for it seems likely to paradoxically decrease the liability of the false billers (CMG's), which they may secretly want. By "having it available" the liability can be argued by CMG's to shift to the physicians who will be afraid to ask for it and most likely will not have free access to it.

The legislation should include a provision to publish a billing summary for all patients detailing all billing for each MD for which a CMG is submitting bills. It would be beneficial to the physicians to see what they are billing, and then any impropriety will be seen immediately and can be contested. The other likely end result will be that under the constant scrutiny CMS will achieve it's desired result of accurate billing as a result of the auditing function that will be assumed by the ED MD who must review, accept or contest his billings (like a checking account stmt).
It also brings all billing practices out into the open which is one of AAEM's goals and presumably CMS' goals as well. It would be interesting to force the CMG's to publish a collections summary re the billing as a companion document to see CMG gross revenue which according to CMS is the physician's info as well. This would really change the dynamic in EM, decrease fraudelent billing, and advance the independent subcontractor status to a bon fide relationship instead of a sham.

Steven C. Gabaeff, M.D., F.A.A.E.M.
1901 Rolls Way
Carmichael, CA 95608
O 916 485 6706
C 916 342 4835
F 916 485 6741
sgabaeff@adnc.com

CMS-1429-P-1282

Submitter : **Date & Time:** 09/13/2004 05:09:45

Organization :

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

As a physician, if I am to be held liable, I request that EOB's be sent to me, such that I am aware of the billing going on in my name.
Paul Young

Submitter : Ms. JAN DUNCKER **Date & Time:** 09/13/2004 06:09:40

Organization : COMMUNITY HOSPITAL OUTPATIENT PHYSICAL THERAPY

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

WE ARE CONSISTENTLY BEING TOLD BY OUR PATIENTS THAT THEY ARE PLEASANTLY SURPRISED AT THEIR OUTCOMES AFTER BEING TREATED AT OUR HOSPITAL FACILITY. THEY HAVE BEEN TREATED PREVIOUSLY IN THE DOCTOR'S OFFICES AND ONLY RECEIVED ULTRASOUND AND NO EXERCISES FOR THEIR PROBLEM.

OTHER PATIENTS COMPLAIN ABOUT PRIVATE PRACTITIONERS IN THE REGION. THEY ARE EVALUATED BY A THERAPIST AND NEVER SEE THEM AGAIN. THEY ARE SUPERVISED BY A HIGH SCHOOL TECH TRAINED ON THE JOB.

THIS IS NOT QUALITY PATIENT CARE. IT IS CRITICAL TO OUR PROFESSION TO TRACK OVERUTILIZATION BY PHYSICIANS OR REFERRAL FOR PROFIT.
PLANS OF CARE NEED TO BE COMPLETE TO ENSURE DECENT OUTCOMES.

THANK YOU
JAN

Submitter : Dr. James Li **Date & Time:** 09/13/2004 06:09:12

Organization : Dr. James Li

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Contract groups that hire physicians should be REQUIRED, not simply advised, to provide the billings information that a physician reassigns to them. I've worked for many such groups as an emergency physician over the past decade, and despite regulations that allow me to get access to my billing data, I've never been able to do so because the process has been (in my view deliberately) made difficult and obscure by administrative processes in these groups. Since I am liable for my own billings, whether or not they are reassigned, I feel I deserve to see them automatically.

In reality, I have never worked for a contract group or hospital and been allowed to NOT reassign my billings to them. If I fight this, I am simply not hired. So the contract groups and hospitals simply see this as an extra piece of paperwork that I must sign before hiring me.

Regards,

James Li, M.D.

Submitter : Mr. Jay McCallum **Date & Time:** 09/13/2004 06:09:53

Organization : Williams Health Care Center -- Banner Health

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist practicing in an outpatient clinic in the company of physicians, I frequently provide physical therapy services incident to the physicians at this center. I also have the opportunity to work closely with the physicians at the clinic to better manage patient's health concerns. Providing effective physical therapy intervention is not simply a matter of performing interventions and modalities. The evaluative process is absolutely integral to the effective management of patients, as The Guide to Physical Therapy Practice makes very clear. Physical therapists receive extensive specific education, often culminating in a doctoral degree, in the physical therapy field. We possess knowledge and skills that are not part of the curriculum in medical school.

Effective physical therapy requires the involvement of a physical therapist, who evaluates the patient and designs an appropriate treatment plan based on his or her specialized knowledge and experience. Allowing individuals other than physical therapists and physical therapist assistants to provide and charge for physical therapy services, even under a physician's supervision, is at best likely to be ineffective and at worst could be dangerous.

I strongly support the proposed rule requiring that individuals providing physical therapy services incident-to a physician be performed by a physical therapist or by a physical therapist assistant under the supervision of a physical therapist. That is good, effective coordination of care that yields good clinical outcomes in a cost-effective manner. Allowing unqualified individuals who may have received "on-the-job" training to provide these interventions falls beneath that standard, and in fact falls beneath the standard of care for physical therapy provided in any other setting than a physician's office.

Thank you for your consideration of my comments.

Sincerely,
Jay McCallum, P.T.

CMS-1429-P-1286

Submitter : Mr. Frank Quinn **Date & Time:** 09/13/2004 06:09:43

Organization : Mr. Frank Quinn

Category : Physical Therapist

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

I would like to express my support for the proposed rule that would require that physical therapy services provided in a physician's office incident to a physician's professional services must be furnished by personnel who meet certain standards. Specifically, these services could only be furnished by an individual who is a graduate of an accredited professional physical therapist education program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. I strongly oppose the use of unqualified personnel to provide services described and billed as physical therapy services.

I believe the Medicare Program can provide outstanding therapy services to patients. The government is spending enought money to provide excellent therapy services but the goverment needs to add regulations that ensure that the money spent actually goes to providing the best possible care and not just to increasing profits for business owners. One way of ensuring this is to make sure the persons providing the care are qualified to do so.

Submitter : Mr. Ted Kepros **Date & Time:** 09/13/2004 06:09:01

Organization : Physiotherapy Associates

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

To Whom It May Concren:

It is increasingly evident that health care costs are elevated when inappropriate care is given or individuals who are not qualified to give such care are allowed to intervene. As a health care professional and former associate instructor at the University of Iowa College of Medicine, I am of the strong opinion that the billing of for Physical Therapy services be exclusively limited to those who have underwent the stringent and appropriate training to do so at an accredited physical therapy program.

If someone would like to become a medical doctor and bill for such services, he/she must go through the appropriate training and take the necessary boards. The same standards must be held for all health care professionals,as these are the very standards which ensure the quality of care we as Americans have been fortunate enough to enjoy. The patient can trust that a minimum set of standards has been met by the professional providing them the services that they seek. However, if professionals are allowed bill for areas of expertise they are not trained, liscensed, or certified than the patient and the sytem suffers.

In Health,

Ted Kepros

CMS-1429-P-1288

Submitter : Mr. Brad Young **Date & Time:** 09/13/2004 06:09:25

Organization : Mr. Brad Young

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

As a athletic trainer I believe the regulations that you have proposed will greatly effect the access people have to rehab services. The people that I work with are highly trained and educated and have a passion for what they do.They work in high school across this country and other work areas to protect and advocate for the well being of the youth of America.They also provide services at the professional level of sports. This proposal is not cost effective and will make health care more expensive.

CMS-1429-P-1289

Submitter : **Date & Time:** 09/13/2004 06:09:29

Organization :

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I stongly support CMS's proposed requirement that physical therapists working in physician's offices be graduates of accredited professional physical therapy programs. Unqualified personnel should not be administering and billing for services described as physical therapy.

Submitter : Mrs. Ann Giffin **Date & Time:** 09/13/2004 06:09:14

Organization : University of Tennessee Medical Center

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached comments

CMS-1429-P-1290-Attach-1.doc

CMS-1429-P-1290-Attach-2.doc

Attachment to # 1290
8949 Wesley Place Drive
Knoxville, Tennessee 37922
August 17, 2004

Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

RE: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005 – Therapy – Incident To

Dear Dr. McClellan,

My name is Ann Giffin. I have been licensed as a physical therapist since 1973, following completion of a master's degree at Duke. I have served on the OT/PT licensing board in Tennessee. I have been the Director of Rehabilitation Services at the University of Tennessee Medical Center, Knoxville, Tennessee since 1986.

I would like to express my strong support for the "Therapy – Incident To" revisions requiring Licensed Physical Therapists in the provision of services in a physician's office. As a former member of the Tennessee Board that licenses physical therapists and physical therapist assistants, I suggest that **ONLY** these two categories of health care providers are qualified by education and training to provide skilled physical therapy.

Licensure is a means of reassuring the public that the individuals providing their care of met specific standards, including graduation from a program approved by the state. Unlicensed and/or on the job trained individuals do not meet these qualifications, increasing the risk of unnecessary and potentially harmful care to Medicare patients.

As the administrator of several hospital based outpatient physical therapy clinics, it would seem to me appropriate for all physical therapy services, regardless of setting, to meet the same standards. This will assure patients their care will be provided by qualified physical therapists and physical therapist assistants. A dual standard is never in the patient's best interest.

Thank you for considering similar regulations for all physical therapy services in the 2005 Physician Fee Schedule Guidelines.

Sincerely,

Ann Giffin, PT, MS

8949 Wesley Place Drive
Knoxville, Tennessee 37922
August 17, 2004

Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

RE: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005 – Therapy – Incident To

Dear Dr. McClellan,

My name is Ann Giffin. I have been licensed as a physical therapist since 1973, following completion of a master's degree at Duke. I have served on the OT/PT licensing board in Tennessee. I have been the Director of Rehabilitation Services at the University of Tennessee Medical Center, Knoxville, Tennessee since 1986.

I would like to express my strong support for the "Therapy – Incident To" revisions requiring Licensed Physical Therapists in the provision of services in a physician's office. As a former member of the Tennessee Board that licenses physical therapists and physical therapist assistants, I suggest that **ONLY** these two categories of health care providers are qualified by education and training to provide skilled physical therapy.

Licensure is a means of reassuring the public that the individuals providing their care of met specific standards, including graduation from a program approved by the state. Unlicensed and/or on the job trained individuals do not meet these qualifications, increasing the risk of unnecessary and potentially harmful care to Medicare patients.

As the administrator of several hospital based outpatient physical therapy clinics, it would seem to me appropriate for all physical therapy services, regardless of setting, to meet the same standards. This will assure patients their care will be provided by qualified physical therapists and physical therapist assistants. A dual standard is never in the patient's best interest.

Thank you for considering similar regulations for all physical therapy services in the 2005 Physician Fee Schedule Guidelines.

Sincerely,

Ann Giffin, PT, MS

Submitter : Ms. Roseann Jose **Date & Time:** 09/13/2004 07:09:08

Organization : Grand Canyon University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13, 2004

Department of Human Performance
1400 Highland Center
Mankato, Minnesota 56001

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS1429-P
P.O. Box 8012
Baltimore, MD 21344-8012

RE: Incident to

Dear Sir/Madam:

I am compelled to write this letter in regards to the CMS-1429-P proposal. This CMS-1429-P proposal would limit patient access to qualified health care providers of ?incident to? services in physician offices and clinics, thus reducing the quality of health care for athletes. This could limit health care providers to service athletes involved in sports.
This will turn into more problems that include an increase in health care cost, higher tax rates, plus putting a burden on the healthcare system.

As a future Certified Athletic Trainer (ATC) the Athletic Training Program is a vigours and intense curriculum that entails health care administration, acute care of injury and illness, assessment of injury/illness, exercises physiology, pharmacology, therapeutic exercise and rehabilitation courses.

The requirements in the Athletic Training Program also include supervision by an ATC, where the student is allowed to observe, and get hands on experience in assessment, rehabilitation, conditioning and strengthening programs for the athletes.

Personally, I work under an ATC who provides knowledge, mentoring and gives me the opportunity to acknowledge and determine what is needed for our athletes. He has worked in the athletic training field for more then 20 years. He knows what is best for an athlete in different weather climax from heat exhaustion to frost bite. He is able to demonstrate assessments on blisters, concussions, strains and sprains. He gives clear instructions and explains what and why it is necessary to understand the concept and responsibility of an ATC.

In the rehab aspect he provided a conditioning program for a first degree ankle sprain that included a compression boot for twenty minutes, twenty minutes on ice with compression wrap, then 20 minutes rest and elevation. He continued to do this cycle for eight hours for the next two days. On the second day the athlete was standing and continued to perform range of motion exercises. The athlete was progressing with tolerance and in one week was able to play her sport. This was one of many rehab programs he provided for the athletes. He can design an athletic training facility that provides quality services for the athletes.

In addition, it is required to work 1000 clinical hours that pertain in health care setting such as clinics, hospitals, EMTs and schools. So my concern is stop the CMS-1429-P proposal, so ATC can work and provide quality care to our clients. It will benefit rather than eliminate the ATC out of their profession.

I still need three months to finish the Athletic Training Program and would like an opportunity to provide quality care to the general public.

Sincerely,

Grand Canyon University
Athletic Training Student

CMS-1429-P-1291-Attach-1.rtf

Roseann Jose, ATS,

Grand Canyon University
2732 West Medlock #214
Phoenix, AZ 85017
480 695-7512

Attachment to # 1291
September 13, 2004

Department of Human Performance
1400 Highland Center
Mankato, Minnesota 56001

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS1429-P
P.O. Box 8012
Baltimore, MD 21344-8012

RE: “Incident to”

Dear Sir/Madam:

I am compelled to write this letter in regards to the CMS-1429-P proposal. This CMS-1429-P proposal would limit patient access to qualified health care providers of “incident to” services in physician offices and clinics, thus reducing the quality of health care for athletes. This could limit health care providers to service athletes involved in sports. This will turn into more problems that include an increase in health care cost, higher tax rates, plus putting a burden on the healthcare system.

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worked in the athletic training field for more then 20 years. He knows what is best for an athlete in different weather climax from heat exhaustion to frost bite. He is able to demonstrate assessments on blisters, concussions, strains and sprains. He gives clear instructions and explains what and why it is necessary to understand the concept and responsibility of an ATC.

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In addition, it is required to work 1000 clinical hours that pertain in health care setting such as clinics, hospitals, EMTs and schools. So my concern is stop the CMS-1429-P proposal, so ATC can work and provide quality care to our clients. It will benefit rather than eliminate the ATC out of their profession.

I still need three months to finish the Athletic Training Program and would like an opportunity to provide quality care to the general public.

Sincerely,

Roseann Jose
Grand Canyon University
Athletic Training Student

Submitter : **Date & Time:** 09/13/2004 06:09:47

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached document

CMS-1429-P-1292-Attach-1.doc

Jamie Musler, MS, ATC
54 Lorraine Metcalf Rd
Franklin, MA 02038

Attachment to # 1292

September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and

separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Jamie Musler, MS, ATC
54 Lorraine Metcalf Rd
Franklin, MA 02038

CMS-1429-P-1293

Submitter : Patrick Kinney **Date & Time:** 09/13/2004 07:09:03

Organization : Patrick Kinney

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist practicing in Wisconsin, I am writing to strongly support the proposed personnel standards for physical therapy services that are provided "incident to" physician services in the physician's office. I believe that interventions should be represented and reimbursed as physical therapy only when performed by a physical therapist or by a physical therapist assistant under the supervision of a physical therapist. I would oppose the use of unqualified personnel to provide services described and billed as physical therapy services. Quality and safety of patient care would be compromised.

Thank you for your time and attention.

Patrick D. Kinney, PT

Submitter : Mr. Michael Overturf **Date & Time:** 09/13/2004 07:09:31

Organization : AthletiCo

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-1294-Attach-1.txt

Attachment #1294

September 8, 2004

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy- Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

"Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medial subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interest of the patient.

In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health

care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a local of local and immediate treatment.

Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

Athletic trainers are highly educated health care professionals. All certified athletic trainers must have a bachelor's or master's degree from an accredited college or university. Foundation coursework includes: human anatomy and physiology, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical and occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

To allow only physical and occupational therapists and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide these services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat, and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the most elite athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

We are facing a financial disaster when it comes to Medicare and private insurance companies premiums. It was just in the news that Medicare was increasing premiums by 17% and private insurances were averaging 11% increases! It all comes down to something I learned in 5th grade, supply and demand. By eliminating health care professionals from "incident to", you decrease the supply of qualified individuals and therefore cause an increase in costs secondary to greater than before demand. There would be higher quality of care as well with a higher supply.

Personally, I am employed in the collegiate setting. We have an accredited athletic training curriculum at this institution. By eliminating "incident to" services by athletic trainers, you are telling these students in this program that they are wasting their valuable time and money on an education that will be worthless to them as a career.

Why is it that CMS sees someone with ONLY an associated degree (physical therapy assistant) as qualified to treat Medicare patients, whereas someone with two more years of schooling and clinical experience (certified and licensed athletic trainer) is unable to? It doesn't make much sense to me either.

Thank you for your time and consideration on this matter.

Sincerely,

Michael Overturf, ATC/L, NASM-PES

CMS-1429-P-1295

Submitter : Mrs. Robin Ryan **Date & Time:** 09/13/2004 07:09:28

Organization : Mrs. Robin Ryan

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

As a physical therapist, it sickens me to talk to patients who have received "physical therapy" in a physician's office, and the service is being delivered by an untrained aide, in some cases, the physician's wife, son or daughter! These aides are paid blue-collar wages, are providing modalities such as ultrasound, heat, stretching exercises, etc.. and the physician is telling the patient he/she is getting "physical therapy" treatment.

There is a reason that physical therapists attend a minimum of 4 years education (in most cases, 6+ years). We do more than apply modalities. Any trained monkey can turn an ultrasound or electric stimulation machine on and off, and any untrained aide can do the same. But applying modalities or supervising exercise is NOT physical therapy. Physical therapists are skilled at evaluation and immediate modification of a treatment plan, manual therapy, appropriate "hands on" care, and this is not something that one can learn "on the job", trained by a physician.

The training for physical therapists is very different from that of physicians. It is objectionable for physicians aides to provide what is UNFAIRLY and in some cases ILLEGALLY being marketed as "physical therapy".

It also results in less improvement and more cost for the Medicare beneficiary. Medicare is paying more $$ for less skilled care.

PLEASE insist that only physical therapists can provide physical therapy!! Thank you sincerely,

Robin S. Ryan
Chaska, MN
PROUDLY LICENSED in the State of Minnesota,
Minnesota physical therapy license #4053

CMS-1429-P-1296

Submitter : Mr. briggs horman **Date & Time:** 09/13/2004 07:09:09

Organization : Mr. briggs horman

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

i am in support of this change

Submitter : Mr. Lance Hammons **Date & Time:** 09/13/2004 07:09:39

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1297-Attach-1.doc

Attachment to # 1297

Lance Hammons, ATC, PT
5662 Walnut Ave, Apt 2A
Downers Grove, IL 60516

September 10, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

As a Physical Therapist and Athletic Trainer, I have had the opportunity to utilize the skills that I have gained from each profession to help care for and treat my patients. The skills and education which I gained from my degree in Athletic Training have allowed for better patient care, including assessment, and a quicker recovery of my patients. If this proposal passes, you would be telling the many Registered Nurses, Physician Assistants, Chiropractors, and Physicians that work with Athletic Trainers on a professional basis everyday that they are not competent in making professional and medical decisions for their patients. By not allowing the above groups to dictate care for people of all ages is a case of neglect and disservice to those patients. The general population (all ages) would not only lose a valuable part of their medical care, but also the ability to trust in their physicians and others to make the best choice for rehabilitation and treatment of their problem or injury.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
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- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Lance Hammons, ATC, PT
5662 Walnut Ave, Apt 2A
Downers Grove, IL 60516

Submitter : Mr. ernest roy **Date & Time:** 09/13/2004 07:09:10

Organization : lrghealthcare

Category : Other Practitioner

Issue Areas/Comments

GENERAL

GENERAL

Dear CMS,
I wish to comment on the proposal requiring that services billed as Physical Therapy, when furnishe din a physician's office, actually be performed by a licensed physical therapist. This is an essential piece of rulemaking if the interest of safe, quality healthcare is to be furthered. To allow unlicensed and untrained persons to provide services billed as Physical Therapy would be to allow substandard services. There is also a tendency for such services to be inappropriately utilized and/or overutilized. Physical Therapists today are trained to a Master's Degree level in order to even enter the field. Many now enter with Doctoral level degrees in Physical Therapy. There will be no comparison between the proficiency of the trained PT's versus some office helper instructed in a few basic modalities and passed off as "PT" in order to increase the financial bottom line of a medical practice. Please do the right thing for the health, safety, and welfare of our citizenry and prohibit non-Physical Therapists from billing for PT services.

Regards,
Ernest Roy PT, CSCS

CMS-1429-P-1299

Submitter : Rob Pace **Date & Time:** 09/13/2004 07:09:09

Organization : physiotherapy Associates

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I have been a PT for six years now in an orthopedic outpatient setting, I have enjoyed the process of maing a positive influence on peoples lives through proven methods. My education cost me, via loans and work programs, approx. $100,000. I do not look back at my career and school choice with distain- this is a wonderful profession and a lucky to be a part of it, and valued education brings a higher sense of professional respect. As my career has progressed, there has been a decline in reimbursment for the skilled services that I provide. It disturbs me that, despite continued efforts to enhance my treatment ability via continued education and research, there are people that claim that they can provide the same level of care that I or other PTs can provide who have PT licensure. We have worked hard to achieve the title of Physical Therapist and it just isn't right that non-physical therapists can treat and bill for physical therapy services.
I do not fear continued competition from non-licensed people practicing as PTs, for they do not have the ability to effect a patient's outcomes as my PT peers. What I do fear is a biased playing field where the source of the patients looks more at how therapy will benifit them over the patient- this effects my practive and my staff. I want a situation when the licensed PT who provieds the best care the patient is rewarded for doing so.

Call me old fashioned, but I want independant licensed PTs performing physical therapy and getting paid for it.